

### **Subpart 632.1—Non-Commercial Item Purchase Financing**

#### **632.114 Unusual contract financing.**

The Procurement Executive is the agency head for the purpose of FAR 32.114.

[64 FR 43627, Aug. 11, 1999]

### **Subpart 632.2—Commercial Item Purchase Financing**

#### **632.201 Statutory authority.**

The head of the contracting activity is the agency head for the purpose of FAR 32.201.

[64 FR 43627, Aug. 11, 1999]

### **Subpart 632.4—Advance Payments**

#### **632.402 General.**

(b) Advance payments shall be authorized sparingly. Contracting officers should consider the use of partial payments, fast payments, or more frequent payments as alternatives to advance payments.

(c)(1)(iii) The authority to make the determination prescribed in FAR 32.402(c)(1)(iii) is delegated, without power of redelegation, to the head of the contracting activity (see 601.603-70). For acquisitions by overseas posts, the head of the contracting activity shall obtain the concurrence of the Procurement Executive before making a determination pursuant to this section.

[53 FR 26173, July 11, 1988, as amended at 59 FR 66764, Dec. 28, 1994]

#### **632.404 Exclusions.**

(a) Total advance payments may be authorized for the items listed in FAR 32.404(a), notwithstanding their designation as a commercial item and acquisition under FAR part 12 procedures.

[64 FR 43627, Aug. 11, 1999]

#### **632.407 Interest.**

(d) The Procurement Executive is the agency head's designee for the purposes of FAR 32.407(d).

[59 FR 66764, Dec. 28, 1994]

### **Subpart 632.7—Contract Funding**

SOURCE: 64 FR 43628, Aug. 11, 1999, unless otherwise noted.

#### **632.702 Policy.**

##### **632.702-70 DOS policy.**

The Department's policy is to provide full funding for all contracts, to the maximum extent practicable. FAR 32.704 and 32.705-2 provide for incremental funding of cost-reimbursement contracts. Fixed-price, labor-hour, and time-and-materials contracts for severable services may also be incrementally funded if full funding is not available at the time of contract award and the contracting officer executes a determination and findings, approved by the requirements office, justifying the need for incremental funding due to the unavailability of funds.

#### **632.703 Contract funding requirements.**

##### **632.703-3 Contracts crossing fiscal years.**

(b) The head of the contracting activity is the agency head for the purpose of FAR 32.703-3(b).

#### **632.705 Contract clauses.**

##### **632.705-70 DOSAR contract clause.**

The contracting officer shall insert the clause at 652.232-72, Limitation of Funds, in incrementally funded fixed-price, labor-hour, and time-and-materials solicitations and contracts for severable services.

### **Subpart 632.8—Assignment of Claims**

#### **632.803 Policies.**

(b) The assignment of claims shall be prohibited for all personal services contracts. The assignment of claims shall also be prohibited for all contracts awarded and performed overseas, unless approval is received from the Procurement Executive. The Directors, Regional Procurement Support Offices may approve the assignment of claims

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for contracts under their administration after obtaining legal consultation.

[59 FR 66764, Dec. 28, 1994, as amended at 64 FR 43628, Aug. 11, 1999]

### Subpart 632.9—Prompt Payment

#### 632.903 Policy.

The authority to make the determination prescribed in FAR 32.903 is delegated, without power of redelegation, to the head of the contracting activity. Before making a determination concerning early invoice and contract financing payments, the head of the contracting activity shall consult with the Office of Fiscal Operations director, or designee.

[55 FR 5775, Feb. 16, 1990]

#### 632.908 Contract clauses.

(a) The contracting officer may insert a clause substantially the same as the clause at 652.232-70, Payment Schedule and Invoice Submission (Fixed-Price), in fixed-price type solicitations and contracts.

(b) The contracting officer may insert a clause substantially the same as the clause at 652.232-71, Voucher Submission (cost-Reimbursement), in cost-reimbursement type solicitations and contracts.

[59 FR 66764, Dec. 28, 1994]

## PART 633—PROTESTS, DISPUTES, AND APPEALS

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AUTHORITY: 40 U.S.C. 486(c); 22 U.S.C. 2658.

SOURCE: 53 FR 26173, July 11, 1988, unless otherwise noted.

### Subpart 633.1—Protests

#### 633.102 General.

All communications relative to protests filed with the General Accounting Office (GAO) shall be coordinated with the Office of the Legal Adviser.

[53 FR 26173, July 11, 1988, as amended at 64 FR 43628, Aug. 11, 1999]

#### 633.103 Protests to the agency.

(d)(4) The independent review as described in FAR 33.103(d)(4) shall be performed by the Departmental Competition Advocate.

[64 FR 43628, Aug. 11, 1999]

#### 633.104 Protests to GAO.

(a) General procedures. The Office of the Assistant Legal Adviser for Buildings and Acquisitions (L/BA) coordinates the response of the Department of State to protests filed at the GAO. Contracting activities shall consult L/BA for guidance before taking any actions in response to a protest to GAO.

[64 FR 43628, Aug. 11, 1999]

### Subpart 633.2—Disputes and Appeals

#### 633.203 Applicability.

The Procurement Executive is the agency head for the purposes of FAR 33.203(b).

#### 633.214-70 Alternative dispute resolution.

(a) *Policy.* The Department's goal is to resolve contract disputes before the issuance of a contracting officer's final decision under the Contract Disputes Act. Contracting officers shall consider all possible means of reaching a negotiated settlement, consistent with the Government's best interests, before issuing a final decision on a contractor claim under the process outlined in FAR 33.206 through 33.211.

(b) *When to use ADR.* (1) *Factors favoring ADR.* Contracting officers should consider using ADR in those cases where:

(i) Only facts are in dispute;

(ii) The facts are clearly not favorable to the Government;